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11 IN THE UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13 WELTONIA HARRIS, individually and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 U.S. PHYSICAL THERAPY, INC.,

18 Defendant.

CIVIL ACTION NO.
2:10cv1508-JCM-LRL

**U.S. PHYSICAL THERAPY, INC.'S
FIRST AMENDED ORIGINAL
ANSWER TO PLAINTIFF'S
ORIGINAL CLASS ACTION
COMPLAINT**

19 COMES NOW, Defendant U.S. PHYSICAL THERAPY, INC. ("USPT"), by counsel, for
20 its First Amended Answer to Plaintiff's Original Class Action Complaint ("Complaint") and
21 states as follows:

22 **I. INTRODUCTION**

23 1. USPT admits that this action is purportedly brought under the Fair Credit
24 Reporting Act ("FCRA"), 15 U.S.C. § 1681 et seq. USPT denies the remaining allegations in
25 Paragraph 1 of the Complaint.

26 **II. JURISDICTION**

27 2. USPT admits the allegations contained in Paragraph 2 of the Complaint.
28

III. VENUE

3. USPT denies the allegations in Paragraph 3 of the Complaint.

IV. PARTIES

4. USPT admits the allegations contained in Paragraph 4 of the Complaint.

5. USPT admits it is a Nevada Corporation. The remaining allegations of Paragraph 5 state conclusions of law and no response is required. To the extent a response is required, USPT denies the remaining allegations in Paragraph 5.

V. FACTUAL BACKGROUND AND ALLEGATIONS

6. USPT lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Complaint.

7. USPT admits the allegations in Paragraph 7.

8. USPT denies the allegations in Paragraph 8.

9. USPT lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 9 of the Complaint. USPT denies the remaining allegations in Paragraph 9.

10. USPT denies the allegations in Paragraph 10.

11. USPT denies the allegations in Paragraph 11.

12. USPT denies the allegations in Paragraph 12.

13. USPT denies the allegations in Paragraph 13.

14. USPT denies the allegations in Paragraph 14.

15. USPT denies the allegations in Paragraph 15.

16. USPT denies the allegations in Paragraph 16.

17. USPT denies the allegations in Paragraph 17.

18. USPT lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of the Complaint.

19. USPT denies the allegations in Paragraph 19.

20. USPT denies the allegations in Paragraph 20.

21. USPT denies the allegations in Paragraph 21.

22. USPT denies the allegations in Paragraph 22.

23. USPT denies the allegations in Paragraph 23.

VI. CLASS ACTION ALLEGATIONS

24. USPT admits that Plaintiff purports to bring this action on behalf of herself and the proposed class described in paragraph 24. USPT denies any remaining allegations in Paragraph 24.

25. USPT denies the allegations in Paragraph 25.

26. USPT denies the allegations in Paragraph 26, including subparts a-e.

27. USPT denies the allegations in Paragraph 27.

28. USPT denies the allegations in Paragraph 28.

29. USPT denies the allegations in Paragraph 29.

30. USPT denies the allegations in Paragraph 30.

VII. CAUSES OF ACTION

Count One: Violation of FCRA § 1681b(b)(3)(A)(i)

31. USPT incorporates by reference its responses to Paragraphs 1 through 30.

32. USPT denies the allegations in Paragraph 32.

33. USPT denies that Plaintiff is entitled to recovery of any sum, and therefore denies the allegations in Paragraph 33.

34. USPT denies that Plaintiff is entitled to recovery of any sum, and therefore denies the allegations in Paragraph 34.

Count Two: Violation of FCRA § 1681b(b)(3)(A)(ii)

35. USPT incorporates its answers to Paragraphs 1 through 34.

36. USPT denies the allegations in Paragraph 36.

37. USPT denies that Plaintiff is entitled to recovery of any sum, and therefore denies the allegations in Paragraph 37.

38. USPT denies that Plaintiff is entitled to recovery of any sum, and therefore denies the allegations in Paragraph 38.

39. USPT incorporates its answers to Paragraphs 1 through 38.

1 40. USPT denies that Plaintiff or the putative class members are entitled to any of the
2 requested relief. USPT specifically denies that Plaintiff has suffered, or is entitled to
3 compensation for, any damages. USPT therefore denies that it is liable for the relief requested in
4 the "WHEREFORE" clause of the Complaint, including subparts 1-7.

5 **VIII. DEFENSES**

6 **FIRST DEFENSE**

7 USPT was not involved in the events made the basis of this suit and therefore is an
8 improper party to this action. Ms. Harris did not apply for a position with USPT. USPT did not
9 obtain a consumer report for Ms. Harris. USPT did not offer Ms. Harris employment, nor did it
10 deny Ms. Harris employment. As such, it is an improper party to this suit.

11 **SECOND DEFENSE**

12 Venue is improper in the United States District Court for District of Nevada. This action
13 should be transferred to another United States District Court of appropriate jurisdiction and
14 venue for the convenience of the parties and witnesses pursuant to 28 U.S.C. § 1404. USPT, a
15 Nevada Corporation and Plaintiff's only alleged tie to the state, was not involved in the events
16 that gave rise to this suit. None of the events or omissions giving rise to this claim occurred in
17 Nevada and no potential witnesses in this case are located in Nevada.

18 **THIRD DEFENSE**

19 Plaintiff lacks standing to sue individually or on behalf of a class of similarly situated
20 persons because they have not sustained any injuries as a result of the conduct alleged in the
21 Complaint and the matter does not present a case or controversy pursuant to Article III of the
22 United States Constitution.

23 **IX. PRAYER FOR RELIEF**

24 WHEREFORE, USPT respectfully requests:

25 (1) that the Court enter judgment in favor of USPT and against Plaintiff on the claims of
26 the Complaint and deny all relief sought by Plaintiff,

27 (2) that the Court deny certification of any class;
28

(3) that, in the event a plaintiff class is certified, the Court enter judgment in USPT's favor against all class members;

(4) that the Court award USPT its costs, including reasonable attorneys' fees, incurred in connection with this action; and

(5) that the Court award USPT such other and further relief as this Court deems just and proper.

DATED: October __, 2010

Respectfully submitted,
ALVERSON TAYLOR MORTENSEN & SANDERS

 #9977
for JONATHAN B. OWENS

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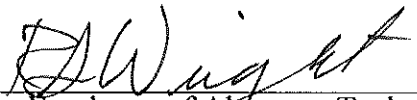
CERTIFICATE OF SERVICE

I certify that I am an employee of ALVERSON, TAYLOR, MORTENSEN & SANDERS, and that on October 22, 2010, I deposited for mailing at Las Vegas, Nevada, a true and correct copy of the foregoing **U.S. PHYSICAL THERAPY, INC.'S FIRST AMENDED ANSWER TO PLAINTIFF'S ORIGINAL CLASS ACTION COMPLAINT**, in a sealed envelope with the correct postage prepaid thereon, addressed as follows:

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